IN THE HIGH COURT OF JUDICATURE AT BOMBAY
O. O. C. J.

WRIT PETITION NO.2352 OF 2004

Mandke Foundation. ...Petitioner.
Vs.
The State of Maharashtra & Anr. ...Respondents.
....
Ms.Anjali Chandurkar i/b. DSK Legal for the Petitioner.
Mr. R.M. Sawant, Govt. Pleader for the Respondents.
.....
CORAM : DALVEER BHANDARI, C.J. &
DR.D.Y.CHANDRACHUD, J.

August 31, 2004.

P.C.:

The Petitioner was alloted 42 flats in a Housing Scheme of the Mumbai Housing and Area Development Board at Oshiwara. The Petitioner failed to pay the purchase price by even the revised date of 30th September 2003, save and except for an amount of Rs. 8.40 lakhs which was paid initially. On 31st January 2004, an intimation was furnished to the Petitioner that the allotment was cancelled and that the amount of one percent that had been paid, stood forfeited.

2. The Petitioner seeks to challenge letters of the Housing Board dated 30th January 2004 and 13th April 2004 and has sought issuance of a writ of mandamus restraining the Respondents from

acting in pursuance thereof.

3. There has, admittedly, been a failure on the part of the Petitioner to comply with the terms of allotment. The action of the Housing Board in terminating the allotment cannot, therefore, be faulted. The action of the Board cannot be regarded as arbitrary or in contravention of Article 14 of the Constitution. The Board has stated before us on affidavit that upon the cancellation of the allotment, the flats were advertised for sale on 21st April 2004 and the rate per square foot was enhanced from Rs.1,600/- to Rs.1,800/-. For the said 42 flats, which were in Code 174, 391 applications have been received. Lots were drawn on 16th August 2004 for selecting the names of successful purchasers. We are of the view that apart from the fact that there is no arbitrariness, illegality or perversity in the decision of the Housing Board to cancel the allotment that has been made in favour of the Petitioner, the interference of the Court, at this stage, is manifestly not warranted. We do not find any merit in the petition. The petition is accordingly rejected.

CHIEF JUSTICE

DR.D.Y.CHANDRACHUD, J.